

1 Reuben D. Nathan, Esq. (SBN 208436)
2 AZIMY & NATHAN, LLP
3 18500 Von Karman Avenue, Suite 500
4 Irvine, California 92612
5 Tel: (949) 486-1888
6 Fax: (949) 486-1889
7 Email: r.n@azimynathan.com
8 e.a@azimynathan.com

9 Attorneys for Plaintiff, JOSEPH ABDULLAH

10
11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**

13 JOSEPH ABDULLAH,

Case No.: C06-04782 PJH

14 Plaintiff(s),

15 vs.

**DECLARATION OF REUBEN D.
NATHAN AND [PROPOSED] ORDER
TO ALLOW PLAINTIFF TO SERVE
CALIFORNIA SECRETARY OF
STATE ON BEHALF OF SHIV, INC.
dba JACK IN THE BOX**

16 SHIV, INC. dba JACK IN THE BOX;
17 PETER A. ZARCADES as Trustee of THE
18 TRUST INDENTURE OF PETER A.
19 ZARCADES; THE TRUST INDENTURE
20 OF PETER A. ZARCADES and Does 1
21 through 10, inclusive.

22 Defendant(s).

DECLARATION OF REUBEN D. NATHAN

I, Reuben D. Nathan declare as follows:

1. That I am the attorney of record for plaintiff, Joseph Abdullah.
2. That Plaintiff has attempted to serve Defendant Shiv, Inc. dba Jack in the Box, but has been unsuccessful in doing so.
3. That in or about August 24, 2006, The San Juaquin County Sheriff, Civil Division, returned the summons and complaint to be served upon Shiv, Inc. dba Jack in the Box to this office because the address for service of process on record with the Secretary of State is an incorrect address. (See Exhibit "A"), the Summons Returned Unexecuted filed by Plaintiff was filed on September 8, 2006. (See Exhibit "B").
4. Plaintiff respectfully requests this Court to grant leave for Plaintiff to subserve the California Secretary of State on behalf of the Defendant, Shiv, Inc. dba Jack in the Box pursuant to California Code of Civil Procedure § 416.10(d), because after diligent efforts to serve the named defendant, neither the entity's agent for service of process nor the entity's officers can be found, due to Shiv, Inc. dba Jack in the Box's failure to maintain proper records of the location of its agent for service of process.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Irvine, California on September 11, 2006 /s/ Reuben D. Nathan
Reuben D. Nathan, Declarant

ORDER

Pursuant to the declaration of plaintiff's counsel:

IT IS ORDERED that the plaintiff serve the California Secretary of State on behalf of Defendant, Shiv, Inc. dba Jack in the Box. Plaintiff is ordered to file a proof of service in accordance with Plaintiff's request as outlined in this declaration, within thirty (30) days of this order.

Dated: September 28, 2006



EXHIBIT “A”

California Business Portal

Secretary of State BRUCE McPHERSON

DISCLAIMER: The information displayed here is current as of SEP 01, 2006 and is updated weekly. It is not a complete or certified record of the Corporation.

Corporation		
SHIV, INC.		
Number: C2496253	Date Filed: 2/14/2003	Status: active
Jurisdiction: California		
Address		
1920 E YOSEMITE AVE		
MANTECA, CA 95336		
Agent for Service of Process		
HITENDRA HENRY J PATEL		
1920 E YOSEMITE AVE		
MANTECA, CA 95336		

Blank fields indicate the information is not contained in the computer file.

If the status of the corporation is "Surrender", the agent for service of process is automatically revoked. Please refer to California Corporations Code Section 2114 for information relating to service upon corporations that have surrendered.

EXHIBIT “B”

Service of Process:

3:06-cv-04782-PJH Abdullah v. SHIV Inc. et al

U.S. District Court

California Northern District

Notice of Electronic Filing

The following transaction was received from Nathan, Reuben D entered on 9/8/2006 at 4:09 PM and filed on 9/8/2006

Case Name: Abdullah v. SHIV Inc. et al

Case Number: 3:06-cv-4782

Filer: Joseph Abdullah

Document Number: 3

Docket Text:

Summons Returned Unexecuted by Joseph Abdullah as to Joseph Abdullah. (Nathan, Reuben) (Filed on 9/8/2006)

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:C:\Documents and Settings\Administrator\My Documents\ADA\Abdullah\ELECTRONIC FILING N.D\POS Abd. v. Shiv, Ir .pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=9/8/2006] [FileNumber=2872090] [

afb80acaaeb55cb510aee78d924cfdd279d39ff7e43992229510ec4be431984acc
eaa5d31aa552888bcd89b4653e914e3f524bff1994f358e1c62307b38]]

3:06-cv-4782 Notice will be electronically mailed to:


Reuben D Nathan r.n@azimynathan.com, e.a@azimynathan.com

3:06-cv-4782 Notice will be delivered by other means to:

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Law Offices of Azimy & Nathan LLP 18500 Von Karman Ave. Ste 500 Irvine, CA 92612-0534 E-MAIL		Telephone	FOR COURT USE ONLY
		FAX	
ATTORNEY FOR (Name): Joseph Abdullah			
United States District Court STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: , CA BRANCH NAME:			
PLAINTIFF: Joseph Abdullah			
DEFENDANT: Shiv Inc dba Jack in the Box et al			
PROOF OF SERVICE OF SUMMONS		FILE NUMBER 2006253671	COURT CASE NUMBER C064782PJH

1. At the time of service, I was at least 18 years of age and not a party to this action
2. I received the following papers on 8/22/2006:
f. other (specify documents): **Summons and Complaint**
3. After due search, careful inquiry and diligent attempts at the dwelling house or usual place of abode and/or business, I have been unable to make personal delivery of said process on the following person(s) herein named, to wit:
Shiv Inc. dba Jack in the Box agent for service Hitendra Henry J. Patel
1920 E. Yosemite Ave
Manteca, CA 95336
4. See Attachment for Declaration of Diligence.
7. Person who attempted Service:
 - a. Name: **Jacqueline Stone**
 - b. Address: **Sheriff's Civil Division**
7000 Michael N Canlis Blvd.
French Camp, CA 95231-9781
 - c. Phone: **(209) 468-4475**
 - d. The fee for service was: **\$30.00**
9. I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: August 25, 2006


 Sheriff's Authorized Agent
 Robert Heidelberg, Sheriff

Hearing: <No Information>

Remarks: **Defendant is unknown at this location**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Law Offices of Azimy & Nathan LLP 18500 Von Karman Ave. Ste 500 Irvine, CA 92612-0534 E-MAIL: _____ Telephone: _____ FAX: _____		FOR COURT USE ONLY	
ATTORNEY FOR (Name): Joseph Abdullah United States District Court STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: CA BRANCH NAME: _____			
PLAINTIFF: Joseph Abdullah DEFENDANT: Shiv Inc dba Jack in the Box et al			
DECLARATION OF DILIGENCE		FILE NUMBER 2006253671	COURT CASE NUMBER C064782PJH

Declaration of attempts to personally serve: Shiv Inc. dba Jack in the Box agent for service Hitendra Henry J. Patel

1st: Date/Time: 8/24/2006 10:53 AM Deputy: Jacqueline Stone
 Addr: 1920 E. Yosemite Ave Manteca CA 95336